



6-29-07

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[Signature]

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OUR FILE: #911

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXPRESS LABEL # ED 9 97-990-764 US
DATE OF DEPOSIT: JUNE 26, 2007

I hereby certify that this IS A PETITION TO NREVIVE AN ALLOWED, UNINTENTIONALLY ABANDONED APPLICATION, and includes: A Deposit Account ORDER FOR THE REVIAL FEE OF \$400.00 AND A \$1,000 Deposit Account OREDER FOR THE ISSUE FEE , concerning patent Application Ser ial No. 10 / 609 ,155, filed June 26, 2003. .Th is being sent by EXPRESS Mail, Post Office to Addressee" service under 37 CFR 1.01 on the date indicated above and is addressed to the Commissioner For Patents, Mail Stop PETITION

By: JoAnn Bates, Secretary

(signature)

MAIL STOP: PETITION
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
Honorable Sir:
ENCLOSED HEREWITH:

1. PROPOSED AMENDMENT AFTER NOTICE OF ALLOWANCE;
- 2.
3. DEPOSIT ACC.ORDER (in duplicate) FOR \$1,000.00 ISSUE FEE DUE;
4. This Acknowledgement postcard (self addressed and stamped);
5. Express Mail Confirmation Letter.

Respectfully submitted,
Marcus L. Bates
By : MARCUS L. BATES



MAHAN

PTO/SB/21 (09-04)
Approved for use through 07/31/2008. OMB 0851-0031
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/609,155
Filing Date	JUNE 26, 2003
First Named Inventor	JAMES D. MAHAN
Art Unit	3772
Examiner Name	MICHAEL A. BROWN
Attorney Docket Number	NO. 903

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached = fee Deposit Acct Order	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input checked="" type="checkbox"/> Affidavits/declaration(s) + deposit acct.order	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MARCUS L. BATES, PATENT LAW PRACTICE		
Signature			
Printed name	MARCUS L. BATES		
Date	MAY 26, 2007 JUNE 26, 2007	Reg. No.	22-579

CERTIFICATE OF**EXPRESS
MAIL**

ED 997 990 764 US

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	<i>Marcus L Bates</i>		JUNE 26, 2007
Typed or printed name	MARCUS L. BATES	Date	MAY 26, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

#903

First named inventor: James D. Mahan

Application No.: 10/609/155

Filed: June 26, 2003

Art Unit: 3772

Examiner: Michael A Brown

Title: Massage Table for Adjusting
Spinal Area

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- ✓(1) Petition fee;
- ✓(2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- ✓(4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 400 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of DEPOSIT ACCT (identify type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

☒ has been paid previously on _____.

☒ is enclosed herewith. - Deposit Acct Order

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to
complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any
comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer,
U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED
FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

07/02/2007 SSESHE1 00000030 021265 10609155

01 FC:2453 750.00 DA



JAMES D. MAHAN

OUR FILE NO. 903

[Petition.rtf] 06-25-07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. 10/609,155 Confirmation No. 7877
Applicant : JAMES D. MAHAN
Filed : JUNE 26, 2003
For : MASSAGE TABLE FOR ADJUSTING SPINAL AREA
Examiner : MICHAEL A. BROWN Art Unit: 3772
Customer No : _____

XX

PETITION TO REVIVE INADVERTENT AND UNINTENTIONAL
ABANDONED APPLICATION
UNDER 37 CFR 1.137(B) PTO/Sb/64

RESPONSE TO THE "NOTICE OF ABANDONMENT" DATED APRIL 26, 2007
(RECEIVED MAY 4, 2007)

Mail Stop: PETITION
Commissioner of Patents
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

HONORABLE SIR:

JUNE 26, 2007

Now comes Marcus L. Bates, your Petitioner, who does declare that he is the practitioner who prepared and prosecuted the above identified patent application that is the subject of this Petition.

That on February 28, 2007, the Issue Papers were prepared, [Exhibit #1, copy attached hereto], 12 days before the issue fee due date of March 12, 2007.

That prior to driving to the Odessa, Texas, U.S. Post Office for "Express Mailing" the required Issue papers and Deposit Account Order for payment of the Issue fee of \$1,000 to the Honorable Commissioner of Patents, I did discover that a typographical error, or oversight by the Patent Office, had neglected to include allowed Claims 10, 11, 12 and 13 in the Notice of Allowance and Issue Fee Due papers.

After discussing the several possible steps we should take with my wife, JoAnn Bates, who has assisted me as my highly trained legal aid and office manager for over 42 years, we concluded that we had best select one of the following actions:

1. In as much as the Issue Papers were prepared for

mailing, along with all the additional papers required, we could have simply mailed everything, and included a letter to the Honorable Commissioner of Patents, stating that the Examiner had also allowed Claims 10 - 13 and that all 13 allowed claims should be included in the Issued Letters Patent, instead of only Claims 1 through 9, as improperly noted on the Issue Papers.

2. Alternatively, we could have simply "red ink corrected" the issue papers, changing the incorrect number of allowed Claims from 1 - 9 to Claims 1 - 13, and additionally placing a note in the issue papers stating my reason for this unusual correction, since all of this was on record and beyond question.

3. Another possible step we could select was to telephone Examiner, Mr. Michael Brown, and take advantage of his wisdom. This is the cure we elected to pursue for several reasons, among which are: The Examiner would likely cure the dilemma by Examiner's Amendment; or, He just might be able to come up with guidance superior to our thoughts.

Accordingly, on February 28, 2007, I telephoned Examiner Brown.

Examiner Brown was unavailable, so I telephoned his Superior, Mr. Gergory Hudon and explained the problem; whereupon

Mr Hudon said that he was no longer in Examiner Brown's division but that he would personally hand carry the message to Examiner Brown. I might have discussed the time constraint involved with Examiner Mr. Hudon, I simply do not remember that specific aspect of the conversation.

Sometime later, Ex Brown returned the call. I discussed each of the above possible solutions with Examiner Brown, and He told me:

- (1) that he could not carry out my suggested cure of the dilemma by Examiner's Amendment;
- (2) that I should not ink correct the issue papers;
- (3) that it would be necessary for him to send "new, corrected papers" to me.

Therefore, I was confident that sooner or later a new, corrected office action and issue papers would arrive in our mail. We often are as much as 10 days obtaining mail from the U.S. Patent Office so we realized that the lost motion involved would likely require several weeks, but with my understanding that new papers were on the way we would of necessity be granted additional time for response, along with a newly dated Notice of Allowance and Issue Fee Due Papers, both providing a new due date.

Instead, like a bolt of lightening from nowhere, a "Notice of Abandonment" (DATED APRIL 26, 07) arrived in the mail on MAY 5th, almost nine weeks after our conversation with Examiner Brown. We were shocked, but upon our study of the situation, it was almost to be expected, for a corrected Notice of Allowance and Issue Fee Due papers surely would arrive in due course, so we could relax and complete our task of getting the papers completed, for an Examiner in the US Patent Office has never let us down during our many years of patent practice and perhaps prosecuting close to 1,000 patent applications filed, most of which have issued as a U.S. Letters Patent.

I immediately telephoned Examiner Brown and was unable to get in touch with him, so we left a message, requesting that he call us as soon as possible. Examiner Brown returned our call and informed me that he did not recall telling me that he would send the new papers. I explained to him that I am 80 years old, a former Examiner, had practiced patent law 42 years, and never had an Examiner to let me down. His reply was that there was nothing he nor his new Boss could do. So now, it appears that this "Petition to Revive" is the only choice we have to retrieve and

reinstate this unintentionally and inadvertent abandonment of the allowed application.

We will not charge the Inventor a dime for the several weeks of frustration and loss of sleep this situation has caused, for the fault does not lay at the inventor's and I do feel that we acted prudently, timely, and respectfully, based on our conversations with Examiner Brown.

Under the circumstances I cannot conjure up any compelling reason why I should not have followed my original but incorrect procedure, for in hindsight this would have avoided the present terrible problem. However we definitely were instructed by Examiner Brown not to amend the issue papers, and not to mail the present issue papers, because new papers would have to be mailed to us. We thought We were doing the Examiner a courtesy in not calling undue attention to his overlooked allowed claim numbers, and that he would come up with a timely solution to the probable typographical error. Even though JoAnn and I try to be very cautious of everything we mail to the Patent Office, but even so, both of us also overlooked the error until only a short time before the issue fee was due. We are willing to do whatever is necessary to save this Inventor's patent application and

eventually his issued U.S. Letters Patent.

Every paper and fee required to issue this patent application is enclosed herein, exactly as it was when it was when it was ready to mail to the Patent Office twelve days prior to the issue fee due date. The number of allowed claims need correcting to reflect allowed Claims 1-13, instead of as listed in the Notice of Allowance papers. More than adequate funds for the Issue Fee were in our deposit account during all the time that the signed issue papers were being purposely held here in West Texas, in accordance with our understanding of Examiner Brown's verbal instructions.

The Honorable Comissioner of Patents is respectfully requested to render a decision that this delay is an "Inadvertent and Unintentional" delay caused by circumstances clearly beyond everyone's control, for everyone involved herein appears to have tried to act equably. Unfortunately, I no longer hear as well as desired, and for this reason my wife, secretary, JoAnn, sometimes does most of the telephone listening and passes the information on to me so we all understand what is being agreed upon, on the rare occasions we telephone an Examiner. People my age sometime do not have perfect recall. However, it is respectfully pointed out that

only a short time ago, I passed my flight physical exam, so I am an active private pilot and not as senile as many unfortunates my age.

Favorable consideration and acceptance of this Petition to Reinstate the inadvertently and unintentionally abandoned patent application is respectfully requested by causing the enclosed exhibit #1 to be corrected and filed while the unexpected and unintentional interlude is somehow eradicated, excused, or canceled.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

A \$400.00 Deposit Account Order (in duplicate) is enclosed to cover the cost of this Petition.

Also enclosed is a second Deposit Account Order in the

amount of \$1,000.00 to cover the issue and printing fees.

Review and approval of this Petition to Revive is respectfully requested.

Respectfully submitted,

Marcus L Bates

Marcus L. Bates
Registration No. 22579
Agent for Applicant

MLB/jab

Phone: 432-563-2885

Enclosed:

Exhibit I. The issue papers that were prepared and made ready for mailing to the USPTO 12 days prior to the due date. Included are \$400.00 Deposit Account Order for "Petition" fee and \$1,400 Deposit Account Order for Issue Fee.

MLB
6-25-07

Exhibit II. Original Notes taken by JoAnn Bates and Marcus Bates during conversations with Examiner Brown on 2 occasions.

END OF AFFIDAVIT

JUN 26 2007

Form #O-140
Form approved by
Comptroller General, U.S.
November 2, 1930

U.S. DEPARTMENT OF COMMERCE
PATENT OFFICE

DEPOSIT ACCOUNT ORDER FORM

MAIL TO: Commissioner of Patents,
Washington, D.C. 20231 Date MAY 25, 2007

Account No. 02-1265 Order No.

Name and Address of Depositor:

MARCUS L. BATES
9007 SOUTH COUNTY ROAD 1315
ODESSA, TEXAS 79766

DESCRIPTION OF ARTICLES OR SERVICES TO BE FURNISHED

BEFORE USING THIS ORDER FORM
read the important information on the
reverse side

FOR OFFICE USE ONLY

ITEM OR SERVICE	VALUE FURNISHED ACTION ON, USE

PLEASE CHARGE THE ABOVE IDENTIFIED ACCOUNT

\$400.00 for Petition For Revival of an Application for Patent

AND, \$1,000 for the Issue Fee OF:

or Application No. 10/609,155

For Inventor : JAMES D. MAHAN

Filed : JUNE 26, 2003

Entitled : MASSAGE TABLE FOR ADJUSTING SPINAL AREA

If additional space is needed attach separate sheet.

THIS FORM MAY BE REPRODUCED WITHOUT PERMISSION OF THE PATENT OFFICE.

(Signature)

MARCUS L. BATES

FOR PROMPT, ACCURATE SHIPMENT PLEASE COMPLETE THE FOLLOWING MAILING LABEL—PLEASE PRINT OR TYPEWRITE

U.S. DEPARTMENT OF COMMERCE
PATENT OFFICE
WASHINGTON, D.C. 20231
OFFICIAL BUSINESS

RETURN AFTER FIVE DAYS

YOUR ORDER NO.

Name MARCUS L. BATES

Street Address 9007 SOUTH COUNTY ROAD 1315

City, State, Zip Code ODESSA, TEXAS 79766



PTO
1

JAMES D. MAHAN

OUR FILE NO. 903

[petition.jab]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. 10/609,155 Confirmation No. 7877
Applicant : JAMES D. MAHAN
Filed : JUNE 26, 2003
For : MESSAGE TABLE FOR ADJUSTING SPINAL AREA
Examiner : MICHAEL A. BROWN Art Unit: 3772
Customer No : _____

XX

PETITION TO REVIVE INADVERTENT AND UNINTENTIONAL

ABANDONED APPLICATION

UNDER 37 CFR 1.137(B) PTO/Sb/64

RESPONSE TO THE "NOTICE OF ABANDONMENT" DATED APRIL 26, 2007

(RECEIVED MAY 4, 2007)

Mail Stop: PETITION
Commissioner of Patents
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Affidavit of JoAnn Bates in re Petition to Revive

HONORABLE SIR:

JUNE 26, 2007

Now comes JoAnn Bates, your Petitioner, who does declare that she is the wife (for past 54 years) and personal secretary and office manager (for past 42 years) of Marcus L. Bates, the practitioner who prepared, and prosecuted the above identified patent application which is the subject of this Petition.

That on February 28, 2007, the Issue Papers were prepared, [Exhibit #1, copy attached hereto], 12 days before the issue fee due date of March 12, 2007.

That prior to driving to the the Post Office in Odessa, Texas, to "Express Mail" the required Issue papers and Deposit Account Order for payment of the Issue fee of \$1,000 to the Honorable Commissioner of Patents, Marcus L. Bates, Agent of Record, discovered that a typographical error, or oversight by the Patent Office, had neglected to include allowed Claims 10, 11, 12 and 13 in the Notice of Allowance and Issue Fee Due papers.

After Marcus Bates and I discussed the several possible steps he could take, he concluded to select one of the following available actions:

1. Since the Issue Papers were prepared for mailing, along with all the additional papers required, he could have simply

mailed everything, and included a letter to the Honorable Commissioner of Patents, stating that the Examiner had also allowed Claims 10 - 13 and that all 13 allowed claims should be included in the Issued Letters Patent, instead of only the indicated Claims 1 through 9, as improperly noted on the Issue Papers.

2. Alternatively, another choice was to simply "red ink correct" the issue papers, changing the incorrect number of allowed Claims from 1 - 9 to allowed Claims 1 - 13, and additionally place a statement to the Honorable Commissioner in the issue papers, setting forth the reason for such an unusual correction, for after all this fact was on record and beyond question.

3. Another possible step he could select was to telephone Examiner Michael Brown, and take advantage of his wisdom. This is the cure he elected to pursue for several reasons, among which were: The Examiner would likely cure the dilemma by Examiner's Amendment; or possibly be able to come up with guidance superior to to Marcus' limited choices.

Accordingly, on February 28, 2007, Marcus telephoned Examiner Brown.

Examiner Brown was unavailable, so Marcus telephoned Examiner Brown's Superior, Mr. Gergory Hudon, and explained the

problem; whereupon Mr Hudon informed Marcus that he was no longer in Examiner Brown's division but that he would personally hand carry the message to Examiner Brown. Marcus might have discussed the time constraint involved with Examiner Hudon. However, neither Marcus nor I remember that specific aspect of the conversation.

Sometime later, Ex Brown returned the call. Marcus discussed each of the above possible solutions with Examiner Brown, and was told:

- (1) that he could not carry out Marcus' suggested cure of the dilemma by "Examiner's Amendment";
- (2) that Marcus should NOT ink correct the issue papers;
- (3) that it would be necessary for the Exaaminer to send "new, corrected papers" to Marcus.

Therefore, we were confident that sooner or later a new, corrected office action and issue papers would arrive in our mail. We often are as much as 10 days or more receiving mail from the U.S. Patent Office, so we both realized that the lost motion involved would likely require several weeks, but with Marcus' understanding that new papers were on the way he would of necessity be granted additional time for response, along with a newly dated Notice of Allowance and Issue Fee Due Papers, both providing a new due dates.

Instead, like a bolt of lightening from nowhere, a "Notice of Abandonment" (DATED APRIL 26, 07) arrived in the mail on MAY 5th, almost nine weeks after Marcus' conversation with Examiner Brown. We both were shocked, but upon further consideration of the situation, it was almost to be expected, because a corrected Notice of Allowance and Issue Fee Due papers surely would arrive in due course, so we could relax and complete the task of getting the papers completed. It is true that an Examiner in the US Patent Office had never let Marcus down during our many years of patent law practice, and perhaps prosecuting close to 1,000 patent applications filed, most of which have issued as a U.S. Letters Patent.

Marcus immediately telephoned Examiner Brown and was unable to get in touch with him, so he left a message, requesting Examiner Brown return the call as soon as possible. Examiner Brown returned the call and informed Marcus that he did not recall telling Marcus that he would send the new issue papers. Marcus explained to Examiner Brown that he was 80 years old, a former Examiner, had practiced patent law in Odessa, Texas, for more than 42 years, and never had an Examiner to let him down. Examiner Brown' reply was that there was nothing he nor his new Boss could do. So now, it appears that this "Petition to Revive" the inadvertent and unintended abandonment of the allowed application

is the only choice available to retrieve and reinstate this patent application.

We will not charge the Inventor a dime for the several weeks of frustration and much loss of sleep this situation has caused, for the fault does not lay at the inventors feet, and I do feel that Marcus acted prudently, timely, and respectfully, based on Marcus' and my conversations with Examiner Brown.

I do recall one conversation with Examiner Brown during which I specifically informed him that the issue fee was due on March 12, 2007.

Under the circumstances Marcus cannot conjure up any compelling reason why he should not have followed his own original, but incorrect procedure, other than he was definitely instructed by Examiner Brown, ie: not to amend the issue papers, and not to mail the present issue papers to the Patent Office, because new papers would have to be mailed to him. Marcus thought we were doing the Examiner a courtesy in not calling undue attention to his overlooked allowed claim numbers, and that the Examiner would come up with a timely solution to the probable typographical error.

Marcus and I try to be very cautious of everything mailed to or from the Patent Office, but even so, both of us also overlooked the error until only a short time before the issue fee

was due. Marcus and I are willing to do whatever is necessary to save this Inventor's patent application and eventually his issued U.S. Letters Patent.

Every paper and fee required to issue this patent application is enclosed herewith (Exhibit Number 1), exactly as it was when it was ready to mail to the Patent Office 12 days prior to the issue fee due date. The number of allowed claims need correcting to reflect allowed Claims 1-13, instead of as listed in the Notice of Allowance papers.

More than adequate funds for the Issue Fee were in our Deposit Account during all the time that the signed issue papers were being purposely held here in West Texas, in accordance with our understanding of Examiner Brown's verbal instructions.

This unwanted situation is an "Inadvertent and Unintentional" delay caused by circumstances clearly beyond everyone's control, for everyone involved herein appears to have tried to act equably. Unfortunately, Marcus no longer hears as well as desired, and for that reason I sometimes do some of the telephone talking and/or listening and immediately pass the Examiner's information on to Marcus, during the conversation, so that we all understand what is being agreed upon, and then one of us again talks to the Examiner on the rare occasions Marcus telephones an Examiner. Also, some people Marcus' age sometime do

not have perfect recall, therefore we try to make notes as the conversation continues.

However, it is respectfully pointed out that only a short time ago, Marcus passed his flight physical exam, and is an active private pilot, and not as senile as many unfortunates his age.

Acceptance, Favorable consideration and approval of this Petition to Reinstate the Inadvertent and Unintentionally Abandoned Patent Application is respectfully requested, by causing the enclosed Notice of Allowance (exhibit #1) to be accepted and corrected and filed while the unexpected and unintentional interlude is somehow excused, or canceled.

A \$400.00 Deposit Account Order (in duplicate) is enclosed to cover the cost of this Petition.

Also enclosed is a second Deposit Account Order in the amount of \$1,400.00 to cover the issue and printing fees.

Review and approval of this Petition to Revive is respectfully requested.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false

statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,



JoAnn Bates
Wife and secretary
To Marcus L. Bates
Registration No. 22579
Agent for Applicant

JAB/jab

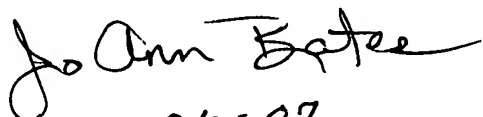
Phone: 432-563-2885

Enclosed:

Exhibit I. \$400.00 Deposit Account Order (in duplicate) for "Petition" fee: and \$1,400 Deposit Account Order for Issue Fee;

Exhibit II. Copy Notes taken during conversations with Examiner Brown on 2 occasions;

END OF AFFIDAVIT of JoAnn Bates



06-26-07

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE - *Petition*
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 or **Fax** (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

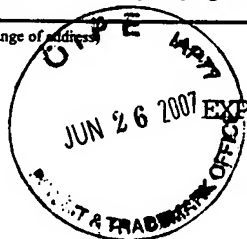
7590

12/12/2006

MARCUS L. BATES
 9007 SOUTH COUNTRY ROAD 1315
 ODESSA, TX 79766



Mr. Marcus Bates
 9007 S County Road 1315
 Odessa, TX 79766-8718



Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

MARCUS L. BATES REG. #22,579

(Depositor's name)

Marcus L. Bates

(Signature)

March June 26, 2007

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,155	06/26/2003	James D. Mahan	#903	7877

TITLE OF INVENTION: MESSAGE TABLE FOR ADJUSTING SPINAL AREA

07/02/2007 SFELEKE2 00000028 021265 10609155

01 FC:2501
 02 FC:1504

700.00 DA
 300.00 DA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$0	\$1000 + \$40	03/12/2007
EXAMINER	ART UNIT	CLASS-SUBCLASS				
BROWN, MICHAEL A	3772	601-049000				

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
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1. MARCUS L. BATES

2.

3.

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

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Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

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5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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Marcus L. Bates

Typed or printed name

MARCUS L. BATES

JUNE

Date MARCH 26, 2007

Registration No. 22579

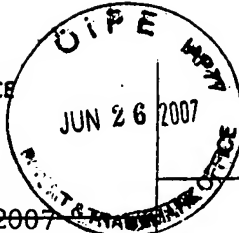
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For Application No. 10/609,155

For Inventor : JAMES D. MAHAN

Filed : JUNE 26, 2003

Entitled : MESSAGE TABLE FOR ADJUSTING SPINAL AREA

If additional space is needed attach separate sheet.

Marcus L Bates
(Signature)

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EXHIBIT I

allowance papers for
issuing Mahan Patent which
were not posted to PTO
in view of Telecon with
Ed Brown.

MLB

(some things removed for
use in the Petition)

Note: John typed in the \$400
Petition fee and planned to use the
form for the Affidavit of expenses.

MLB 6-26-07

She also struck out the old date as noted.

PART B - FEE(S) TRANSMITTAL

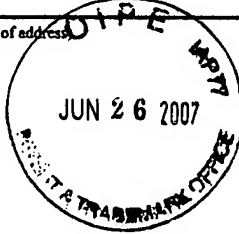
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JOAnn Bates, Secretary (Depositor's name)

(Signature)

MARCH 01, 2007 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,155	06/26/2003	James D. Mahan	#903	7877

TITLE OF INVENTION: MESSAGE TABLE FOR ADJUSTING SPINAL AREA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$0	\$1000	03/12/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
BROWN, MICHAEL A	3772	601-049000

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1 **MARCUS L. BATES**

2 _____

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5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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Date **MARCH 01, 2007**

Typed or printed name **MARCUS L. BATES**

Registration No. **22579**

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/609,155
	Filing Date	JUNE 26, 2003
	First Named Inventor	JAMES D. MAHAN
	Art Unit	3772
	Examiner Name	MICHAEL A. BROWN
Total Number of Pages in This Submission	Attorney Docket Number	NO. 903

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<input checked="" type="checkbox"/> Fee Attached = fee Deposit Acct Order	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	Remarks	

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Firm Name	MARCUS L. BATES, PATENT LAW PRACTICE	
Signature	<i>Marcus L. Bates</i>	
Printed name	MARCUS L. BATES	
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For Application No. 10/609,155

For Inventor : JAMES D. MAHAN

Filed : JUNE 26, 2003

Entitled : MASSAGE TABLE FOR ADJUSTING SPINAL AREA

If additional space is needed attach separate sheet.

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JoAnn Bates, Secretary

(Depositor's name)

(Signature)

March June 26, 2007

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,155	06/26/2003	James D. Mahan	#903	7877

TITLE OF INVENTION: MESSAGE TABLE FOR ADJUSTING SPINAL AREA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
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EXAMINER	ART UNIT	CLASS-SUBCLASS
BROWN, MICHAEL A	3772	601-049000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.563).

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1 MARCUS L. BATES

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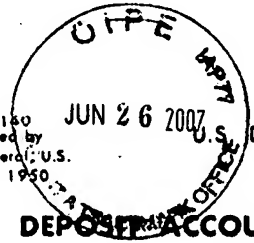
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For Application No. 10/609,155

For Inventor : JAMES D. MAHAN

Filed : JUNE 26, 2003

Entitled : MESSAGE TABLE FOR ADJUSTING SPINAL AREA

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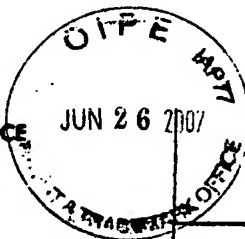
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or Application No. 10/609,155

For Inventor : JAMES D. MAHAN

Filed : JUNE 26, 2003

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For Application No. 10/609,155

For Inventor : JAMES D. MAHAN

Filed : JUNE 26, 2003

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Total Number of Pages in This Submission

Application Number	10/609,155
Filing Date	JUNE 26, 2003
First Named Inventor	JAMES D. MAHAN
Art Unit	3772
Examiner Name	MICHAEL A. BROWN
Attorney Docket Number	NO. 903

ENCLOSURES (Check all that apply)

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form
<input checked="" type="checkbox"/> Fee Attached = fee Deposit Acct Order
<input type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input checked="" type="checkbox"/> Affidavits/declaration(s) + deposit acct.order
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement

<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input checked="" type="checkbox"/> Petition
<input type="checkbox"/> Petition to Convert to a Provisional Application
<input type="checkbox"/> Power of Attorney, Revocation
<input type="checkbox"/> Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) _____
<input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input type="checkbox"/> Other Enclosure(s) (please identify below): |
|---|---|--|

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MARCUS L. BATES, PATENT LAW PRACTICE		
Signature	<i>Marcus L. Bates</i>		
Printed name	MARCUS L. BATES		
Date	MAY 26, 2007	JUNE 26, 2007	Reg. No. 22-579

CERTIFICATE OF



EXPRESS
MAIL

ED 997 990 764 US

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	<i>Marcus L. Bates</i>	JUNE 26, 2007
Typed or printed name	MARCUS L. BATES	Date MAY 26, 2007

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EXHIBIT II

hand written notes in re
Ex Deleson

1C3/UU RANDOLPH

Organization Bldg./Room

U. S. DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P.O. BOX 1450

ALEXANDRIA, VA 22313-1450

IF UNDELIVERABLE RETURN IN TEN DAYS

OFFICIAL BUSINESS

AN EQUAL OPPORTUNITY EMPLOYER

James Mahan #903

Response Due June 21, 2006

#1

Feb. 28, 2007 - Telecon TB Examiner Michael

Cls. 1-13 allowed

Notice of allowance papers -

indicates only 1-9 allowed

① 1st office action indicated cls 1-13 allowable when amended

2. However -

in Notice of = ~~indicates~~ ^{only} cls 1-9 ^{are} allowed

Should have been cls 1-13 - all the claim allowed.

Mich Brown. - Phone 571-272-4972

or Boss Gregory Huson - 571-272-4887

2.

examined May 3-5-2007 - Received - Notice of Allowance
Dated April 26.

March 01, 07

Deleon VSP TO yesterday, talked
Supervisor of Mr Gregory Huon Huon
who said he would go see Mr. Brown &
tell him problem - he would send new
= paper & restart timer.

Deleon told Mr Brown who said
all OK & he will send us another
= paper so all is OK. The Typo
was regretted & all cls 1-13 allowed.
MTB JAB

1. mailed response to office action — Elected to prosecute claims ~~1-9~~¹³ Response filed 7-21-06

dated 12-12-2004

2. Rec Notice of Allowance = fee due March 12, 2007
Claims ~~1-9~~ Cls 1-9 allowed = papers dated

3. in preparing issue fee papers, discovered that the issue papers noted only Claims 1-9 as being allowed — should have been Claims 1-~~9~~¹³.

4. Called Ex Brown — No answer — Feb. 28, 2007
Called Ex Brown's ^{Gregory Huson} Supervisor — Feb. 28-2007

✓ He said no longer Brown's supervisor — but he would hand carry info to Mr. Brown — message — only cl 1-9 on = papers should be cl 1-13.

5. Ex Brown returned ~~Call~~ Call. — long discussion — M2B suggested Red ink in correct cl. #'s. Ex B said do not do that. because ~~he would send new papers correcting error.~~ — Specifically noted to Ex Brown that = fee was due March 12th 2007. Ex Brown accused M2B that he would get corrected papers out as soon as possible. — They arrived on _____ well past the = fee due date.

6. Received "Notice of Abandonment" dated April 26th on or about May 5, 2007.

7. Called Ex Brown May 22, 2007 — & ask ~~what~~ told him about receipt of N of A. — very unhappy. ask what we can do now. — said he could do nothing. Suggested "Petition to Revoke" but he would consult with his new supervisor & let us know.

8. Called Ex Brown's New supervisor — unavailable — left message to return our call. — She did Not!

May 22, 2007

Mahan

Telecon to Examiner Brown. re:

Notice of Abandonment - dated April 26, 2007
Because did not pay = fee By March 12-2007.

Mr. Brown said he did not have power to

Extend = fee due date - \$ that he would talk
to his superior (a lady) on Friday
done. Will call back Tuesday - May, since
Monday is a holiday

Wed. May 30, 2007

~~Sta 571~~

Reisel - 571 272 4929

2492.7

May 30, 07

Relecon to USPTO Ex Brown in re ^{Mahon} ~~Wade~~
Pat app Problem # = paper

1. We prepared = paper & when ready to mail discovered that all of the = cl's had not been included in the = paper
2. Relecon to Ex Brown:
Asked Ex B to incl all = cl's by EX came he said not possible.
asked Ex Brown to permit me to have correct = paper by merely changing the number of = cl's - he said no.

Ex Brown said new = paper would be necessary - we understood he would send new = paper.

Today May 30, 07 Ex Brown does not answer his phone. Brad Huxon on leave. Called Ex Keisel (recording) ^{from}. No answer, called in 1-800-PTO-9199 - line busy & 5:00 DC time. Called again & got "Sabrina"

Previous Calls

Herb

New

Ex Brown's ~~Superior~~ Boss

571-272-4940

Patricia Bianco-

#1

Feb. 28, 2007 -

Tolson To Examiner Michael Brown

Cls. 1-13 allowed

Notice of allowance proper -
indicates only 1-9 allowed -
Cls 1-13 allowable when amended -

① 1st office action indicated ^{or} 1-9 allowed.
However -
No in notice of = indicator, cls 1-9 the claim
allowed.

Should have been cls 1-13 - all the allowed.

Much or Brown. - Phone 571-272-4972 ✓
Boss Gregory Huson - 571-272-4887 ✓

2.

original May 3-5-2007 Received - Notice of Abandonment
Dated April 26, 2007 ✓

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

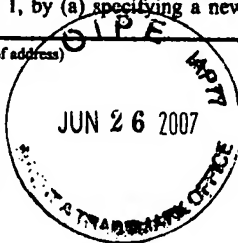
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7590 12/12/2006

MARCUS L. BATES

90079002 SOUTH COUNTRY ROAD 1315
 ODESSA, TX 79766



Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,155	06/26/2003	James D. Mahan	#903	7877

TITLE OF INVENTION: MASSAGE TABLE FOR ADJUSTING SPINAL AREA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$0	\$1000	03/12/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
BROWN, MICHAEL A	3772	601-049000

\$ 1400

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- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

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(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 0212 63 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☒ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Marcus L. Bates

Date

June 26,

Typed or printed name

MARCUS L. BATES

Registration No.

22579

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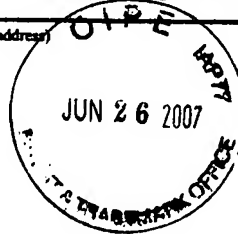
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12/12/2006

MARCUS L. BATES
9002 SOUTH COUNTRY ROAD 1312
ODESSA, TX 79766



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(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,155	06/26/2003	James D. Mahan	#903	7877

TITLE OF INVENTION: MESSAGE TABLE FOR ADJUSTING SPINAL AREA

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nonprovisional	YES	\$700	\$300	\$0	\$1000 + \$400	03/12/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
BROWN, MICHAEL A	3772	601-049000

\$1400 Total due...

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1. MARCUS L. BATES

2. _____

3. _____

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Marcus L. Bates

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Total Number of Pages in This Submission

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First Named Inventor

Art Unit

Examiner Name

Attorney Docket Number

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| <input type="checkbox"/> Reply to Missing Parts/Incomplete Application | <input type="checkbox"/> Landscape Table on CD | |
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Remarks

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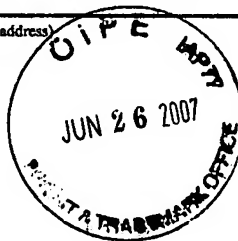
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(Depositor's name)

(Signature)

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